

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

JAMES PATRICK TRENTELMAN and)
PATRICIA J. TRENTELMAN,)

Plaintiff,)

vs.)

Case No. 1:20-CV-00204

CHRIS ROBERT DEMOS and)
NICKEL EXPRESS, INC.,)

Defendants.)

NOTICE OF REMOVAL

COME NOW Defendants Chris Robert Demos and Nickel Express, Inc., by and through their attorneys, and hereby file this Notice of Removal of this action to the United States District Court for the Eastern District of Missouri, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, and in support thereof state:

1. On or about March 30, 2020, Plaintiffs filed their Petition captioned James Patrick Trentelman and Patricia J. Trentelman v. Chris Robert Demos and Nickel Express, Inc., Cause No. 20BT-CV00876, in the Circuit Court of Butler County, Missouri. On or about June 7, 2020, Defendants Chris Robert Demos and Nickel Express, Inc. were served with process in Lake County, Michigan and Wayne County, Michigan, respectively, and received a copy of Plaintiffs' Petition. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served upon Defendants are attached. Exhibit A: Certified copy of the case file in James Patrick Trentelman and Patricia J. Trentelman v. Chris Robert Demos and Nickel Express, Inc., Butler County, Missouri Circuit Court, Cause No. 20BT-CV00876; Exhibit B: Plaintiffs' Answers to Defendant Nickel Express, Inc.'s First Set of Interrogatories.

2. In their Petition, Plaintiffs allege that on July 12, 2016, a truck driven by Defendant Demos and owned by Defendant Nickel Express, Inc. collided with a vehicle owned by Plaintiffs James Patrick Trentelman and Patricia J. Trentelman. The collision occurred on US 67 in Butler County, Missouri.

3. At the time of both the filing of Plaintiffs' Petition and this Notice of Removal, Defendant Nickel Express, Inc. was and is a Michigan corporation with its principal place of business located in Michigan. Thus, for jurisdictional purposes, Defendant Nickel Express, Inc. was and is a citizen of the State of Michigan.

4. At the time of both the filing of Plaintiffs' Petition and this Notice of Removal, Defendant Demos was and is a citizen of the State of Michigan. Thus, for jurisdictional purposes, Defendant Demos was and is a citizen of the State of Michigan.

5. At the time of both the filing of Plaintiffs' Petition and this Notice of Removal, Plaintiffs were and are citizens of the State of Missouri.

6. This Notice of Removal is premised upon this Court's diversity jurisdiction under 28 U.S.C. § 1332(a), as complete diversity of citizenship exists between Plaintiffs and all Defendants.

7. In their Petition, Plaintiffs state their 1991 Peterbilt dump truck was damaged in an amount in excess of \$15,000 and pray for such sum as to adequately compensate Plaintiffs for damages to their property herein, together with their costs expended herein, and any and all further relief just and proper relief in the premises.

8. On or about September 11, 2020 (Ex. B), Plaintiffs furnished Defendant with Plaintiffs' Answers to Defendant Nickel Express, Inc.'s First Set of Interrogatories Plaintiffs answered Interrogatory No. 7 as follows:

7. AMOUNT CLAIMED

Pursuant to R.S.Mo. 509.050, what dollar amount of damages are Plaintiffs seeking as compensation as damages for each count of Plaintiffs' Petition?

ANSWER: **\$50,000 for the loss of truck**
 \$1,200 for license and registration
 \$8,000 per year insurance premiums
 \$550 per month payment on note
 \$2,500 for towing and storage
 \$431,290.74 in lost wages

Plaintiffs' claimed damages now exceed \$490,000. Plaintiffs' Answers to Interrogatories for the first time put Defendants on notice that the Plaintiffs' claim exceeded \$75,000.00.

9. This Notice of Removal is procedurally proper because Defendants timely filed their notice within 30 days after receipt by Defendant of a copy of Plaintiffs' answers to Defendant's First Set of Interrogatories by which Defendants were able to first ascertain that the case had become removeable as required by 28 U.S.C. §1446(b)(3). Complete diversity exists under 28 U.S.C. §1332(a) as Plaintiffs and all Defendants are citizens of different states, and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, under 28 U.S.C. §1332(b), based upon Plaintiffs' Petition and their answers to Defendant Nickel Express, Inc.'s First Set of Interrogatories.

10. Under 28 U.S.C. § 1441, a defendant may remove an action to the District Court of the United States for the district and division embracing the place where the action is pending. Plaintiffs filed their lawsuit in the Circuit Court of Butler County, Missouri and therefore this case is removable to the United States District Court for the Eastern District of Missouri.

11. Defendants Chris Robert Demos and Nickel Express, Inc. are providing Plaintiffs with written notification of the Notice of Removal and concurrently are filing a copy with the Circuit Court of Butler County, Missouri, pursuant to 28 U.S.C. § 1446(a) and (d).

12. A certified copy of the Butler County Circuit Court file is attached hereto as Exhibit F.

WHEREFORE, Defendants Chris Robert Demos and Nickel Express, Inc. hereby remove this action from the Circuit Court of Butler County, Missouri, Cause No. 20BT-CV00876, to the United States District Court for the Eastern District of Missouri.

Respectfully submitted,

/s/ Christopher P. Leritz

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ATTORNEYS FOR DEFENDANTS
CHRIS ROBERT DEMOS and NICKEL
EXPRESS, INC.

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of September, 2020, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record and mailed to: Matthew Edmundson, Edmundson, Innes & Warren, LLC, 201 N. Main Street, Suite A, Poplar Bluff, MO 63901.

/s/ Christopher P. Leritz